

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2010-118085-001 DT

11/14/2012

HONORABLE JOSEPH C. WELTY

CLERK OF THE COURT  
D. McGraw  
Deputy

STATE OF ARIZONA

AARON HARDER  
THOMAS MCDERMOTT

v.

MICHAEL JOHN JAKSCHT (001)

ROBYN GREENBERG VARCOE  
JENNIFER L WILLMOTT

MINUTE ENTRY

The Court has received and reviewed the Defendant's Motion for New Trial as well as the Response and Reply thereto. The Court has also considered the entirety of the trial. In the Motion the Defendant argues that he is entitled to a new trial based upon misconduct on the part of the prosecutor, the Court's preclusion of a defense witness, and the Court's failure to adequately instruct the jury.

The Court finds no misconduct on the part of the prosecutor during any phase of the trial. Specifically, the Court finds that during the State's closing argument the prosecutor stayed within the boundaries of what the Court had previously ruled to be appropriate argument.

The Court further finds that the jury was properly instructed as to recklessness and causation and that the jury is presumed to have followed those instructions.

The Court further finds that the Court's preclusion of defense witness McQuiston was proper for the reasons previously set forth on the record.

Finally, having considered all of the evidence presented at trial as well as the law applicable to the case, the Court finds that the jury's verdict in this matter was neither contrary to the law or evidence.

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Accordingly,

The Defendant's Motion for New Trial is denied.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.